



01-12.06

TFW 1648

EXPRESS MAIL NO.: EV 475 142 167 US**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of:	Ensoli	Confirmation No.:	9400
Application No.:	09/555,534	Art Unit:	1648
Filed:	May 31, 2000	Examiner:	Stucker, Jeffrey J.
For:	HIV TAT, OR DERIVATIVES THEREOF FOR PROPHYLACTIC AND THERAPEUTIC VACCINATION	Attorney Docket No.:	11340-003-999

STATEMENT OF SUBSTANCE OF INTERVIEW UNDER 37 C.F.R. § 1.133

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. § 1.133 and MPEP 713.04, Attorneys for Applicant submit this Statement of Substance of Interview in connection with the telephonic interview of December 13, 2005 between Examiner Jeffrey Stucker and Attorney for Applicant Ann Chen in connection with the above-identified application:


During the telephonic interview of December 13, 2005, Attorney for Applicant informed the Examiner that the List of Related Art Cited by Applicant ("List") that was filed on November 17, 2005 had not been initialed by the Examiner and returned to Attorneys for Applicant. In response, the Examiner informed Ms. Chen that there was no record of receipt by the Patent Office of the Information Disclosure Statement ("IDS") and List filed on that date. The Examiner suggested that Applicant provide with the response to non-final Office Action mailed June 13, 2005 a copy of the IDS and List as filed, as well as a copy of the stamped postcard receipt, indicating the receipt by the Patent Office of these documents. The Examiner also requested that Attorneys for Applicant supplement their response in the future with a replacement List of References Cited by Applicant that provides the titles of the cited references (which were omitted from the List). Accordingly, Applicant enclosed with the Response Under 37 C.F.R. § 1.111 with Amendments filed December 13, 2005 a copy of the IDS and List, with a copy of the stamped postcard receipt.

In the Interview Summary mailed December 21, 2005, the Examiner indicates that during the interview, Applicant was reminded that the MPEP requires that references submitted to the Patent Office must be materially relevant to the claims under examination. Attorneys for Applicant note for the record that the MPEP does not require that every reference submitted to the Patent Office be material to the patentability of the pending claims. In particular, Attorneys for Applicant respectfully direct the Examiner's attention to 37 C.F.R. § 1.97(h), which explicitly states that "[t]he filing of an information disclosure statement shall *not* be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in § 1.56(b)." (emphasis added) Thus, Applicant submits that the submission of the IDS and List should not be construed as an admission by Applicant or Attorneys for Applicant that the references therein are material to the patentability of the claims under examination.

Attorneys for Applicant respectfully request entry of the foregoing remarks into the file history of the above-identified application. It is believed that no fee is due in connection with this Statement; however, in the event any fee is required, please charge the required fee to Jones Day Deposit Account No. 50-3013.

Respectfully submitted,

Date: January 10, 2006


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